

One Community's Case Study for Reform of California's Charter Schools Act

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Assembly Bills that seek to reform California's Charter School Act will soon be debated in the Assembly Education Committee. They will address the charter school approval and appeal process, a local district's authority to approve and oversee the educational choices within its jurisdiction and the location of charter schools. To understand why major changes in the charter approval and location process are necessary it's helpful to understand the experience that the elementary school districts in the Santa Clarita Valley (Los Angeles County) had with the Albert Einstein Academy elementary charter school.

Location, location, location. That's what ignited controversy in the Newhall School District when the Albert Einstein Academy (AEA) elementary charter school opened in Valencia in 2014. Beginning in 2010, AEA failed repeatedly to gain approval of their petition for an elementary charter school. The Newhall, Los Angeles, Ventura, Moorpark, and Saugus school districts, and the Los Angeles County Office of Education (on appeal of the Saugus denial), all rejected AEA's plan due to serious fiscal concerns and instructional program deficiencies.

Around the same time the budget of Acton Agua Dulce Unified (AADUSD), a fiscally distressed school district with an enrollment of about 1,500 students, was certified as "negative," by the LA County Office of Education. The district was unable to meet its financial obligations over multiple fiscal years. A presentation at an AADUSD board meeting claimed that the district could approve enough charter schools to serve over 30,000 students and raise \$1.2 million in oversight fees, thereby fixing their financial problems. The AADUSD board moved ahead to approve multiple charter schools by exploiting a loophole in the charter school law that was meant to allow a single charter to open outside a district's boundaries, in order to serve their district's students, in case there was truly no space for the charter to operate in the district.

In 2013, THE Einstein charter school, after its many rejections by other districts, found AADUSD - a district that was "open for business." Once AADUSD approved the AEA charter petition, they promptly declared there was no room to open in AADUSD and had to look elsewhere. They declared this despite the fact that there was an unused school site in AADUSD.

AEA first wanted to open in the Saugus Union School District. When those plans failed, AEA was caught illegally renovating a building in the Valencia Industrial Center within the southern border of the Castaic School District. The City Council got involved and the effort was shut down. Their school ultimately opened for the 2013-14 school year in AADUSD, contradicting the "no space" claim. Then, in fall 2014, AEA opened within the boundaries of Newhall School District, still claiming a lack of space in AADUSD.

In 2014 Newhall sued AADUSD and AEA over the location issue. The court ruled that Acton-Agua Dulce's approval of the charter petition had to be vacated in light of its failure to support the basis, with findings, for invoking the narrow exception to the location restrictions found in charter law. In his decision, LA Superior Court Judge James C. Chalfant stated, "The court agrees [with NSD]. Revenue generation by

authorizing out-of-district charter schools is not within the purpose and scope of the CSA [Charter Schools Act].” While Newhall was the prevailing party in the suit, the court’s mandated remedy was an administrative fix that ignored the larger issues and a “re-do” was rubber stamped by the AADUSD board.

As the Santa Clarita controversy erupted we discovered that this was statewide problem. Los Angeles Unified School District and Pasadena Unified School District sued AADUSD over illegally placed out-of-district charters. The charter schools, including an AEA site in LAUSD, never opened. A Superior Court judge in San Diego County found that Alpine School District approved an AEA charter school to operate in San Diego Unified School District’s boundaries and reviewed a fact set similar to the Newhall suit. He also found that the charter was invalid. But unlike the LA judge, he ordered the AEA charter to close. Borrego Springs School District had approved several charter schools to locate within Vista Unified School District’s boundaries. There are Northern California examples as well.

The common thread was a small, oftentimes fiscally distressed school district artificially creating a “no space” rationale and agreeing to authorize multiple charters to obtain oversight fees while not losing their own enrollment to the charter school – a “revenue generating scheme” as the court described it in the Newhall lawsuit.

After a couple of years of operation the AEA organization was the subject of a State Fiscal Crisis Management & Assistance Team (FCMAT) “Extraordinary Audit.” This audit spoke to many fiscal concerns created by the managers of AEA and a lack of oversight by AADUSD. However, the Newhall school board did not authorize the AEA school operating within its district and therefore had no authority to intervene and demand fiscal responsibility and accountability. AADUSD, with its conflicting interest in revenue generation, took no action to intervene.

Fiscal problems continued to pile up for AEA. Thankfully, our valley’s William S. Hart Union High School District had appropriately approved an AEA high school charter to operate within the Hart district and therefore had the authority to act on the charter organization’s fiscal mismanagement. In 2017 the Hart board, in a 5-0 decision, acted to close AEA. Ultimately the charter’s fiscal mismanagement brought down both their high school program and their elementary school.

School boards are elected by local voters to provide proper oversight of schools, to ensure education effectiveness, protect students, provide safe and appropriate facilities, and to ensure the responsible and proper use of taxpayer dollars. Such was the case when Hart closed the AEA high school, and *not* the case when AADUSD, Alpine, and Borrego Springs approved charters to operate in other school boards’ jurisdictions.

The California School Boards Association (CSBA) sued the State Board of Education (SBE) over another jurisdictional matter and won. *CSBA v. SBE* (2010) 186 Cal.App.4th 1298, recognized that school districts have sovereignty over the public education provided within their boundaries. The Newhall school board’s right was encroached on by AADUSD by placing the AEA elementary school in Newhall. The now defunct AEA high school program had been approved by the William S. Hart High School District, and legitimately

operated in the Santa Clarita Valley until the district revoked its charter due to serious fiscal mismanagement.

Local councils and boards are elected by district voters to govern their jurisdictions and make decisions about services within them. Imagine the Santa Clarita City Council's reaction if the LA City Council decided that LAPD could better police the street of the Santa Clarita, or the Santa Clarita Water Agency board found that another water board had been monitoring its wells. But that's exactly what AADUSD did when they approved the AEA charter, stating that it would serve AADUSD students, knowing that it intended to open in Newhall, even after being rejected by the Newhall and Saugus school boards.

There are no enforcement mechanisms for abuses of the Charter Schools Act except for those that the authorizing district can impose. When the authorizing district has a vested financial interest in approving multiple charter schools, the only place to turn is the courts. No enforcement mechanisms and conflicting court decisions beg for a legislative remedy.

In 2014 the districts of the Santa Clarita Valley sponsored SB 1263 (Pavley) to close the location exception loophole. It moved successfully through the Legislature but Governor Brown chose to veto it. In his veto he stated, "Unfortunately, it appears that some districts and charter schools have gone against the spirit of the law and the exemption has instead become the rule." It was the small district approval scheme described above, with its manufactured inability to house multiple charter schools within the boundaries of the authorizing school district, which caused a narrow exception in the law to become the rule.

Let's agree that parent choice and charter schools are givens. But legislation that corrects problems with the 25 year old Charter School Act is still needed. The bills that have been introduced address the topics of charter school approval, appeal and location as matters of law and jurisdictional sovereignty of school boards, and not about the merits of charter schools or parent choice.

If successful, the law will be amended to require a prospective charter school to submit its petition for operation to the school board of the district in which it intends to operate. In this way, only local school board members, as the Charter Schools Act intends, can decide - in the legal, prescribed and required manner - whether the proposed program meets the needs of local residents, whether the organization's fiscal structure is sound, and whether the program is a "fit" for their district. With a valid petition, vetted and approved by the local school board, the district can maintain proper oversight and accountability of the charter rather than leaving accountability to a remote district that has approved the charter school for revenue generation without regard to the needs of a distant community.

Winger is the former superintendent of the Newhall School District. He served in that capacity for 18 years, from 1997 through 2015